

**MINUTES**  
**Texas Board of Health Meeting**  
**July 13, 2001**

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The July 13, 2001, meeting of the Texas Board of Health (Board) was called to order at 9:30 a.m. at the Texas Department of Health (TDH), 1100 West 49<sup>th</sup> Street, Room M-739, Austin, Texas. Mr. J. C. Chambers, Chair, recognized Ms. Kristine S Lloyd as Honorary Chair, in recognition of her service to the Board of Health. Five Board Members were in attendance.

**Board of Health Members:**

J. C. Chambers, Chairman  
Mario R. Anzaldúa, M.D., Vice-Chairman  
Beverly H. Robinson, Ph.D., R.N.,C., F.A.A.N.  
Margo S. Scholin, B.S.N., M.S., J.D.  
Walter D. Wilkerson, Jr., M.D.

**Board of Health Member Absent**

Mary E. Ceverha, M.P.A.

**Registered Guests**

Gail Harris, Texas Medical Association  
Larry Houser, Health and Human Services Commission  
Jennifer Seevers  
JoAnne Hargrave  
Tulili McKinley  
Susan Jones, Texas Hospital Association  
Mary Dingrando  
Robert (Bob) Caldemeyer, Wyeth-Ayerst Laboratories  
Beverly Jimmerson, Texas Health Quality Alliance  
Lester Murphy Knoll, Joint Commission  
Regina Martin, Legislative Budget Board

Ms. Lloyd welcomed and introduced the guests. Also in attendance were Charles E. Bell, M.D., Executive Deputy Commissioner and other key staff members of TDH.

ON A MOTION MADE BY MS. LLOYD, THE BOARD APPROVED THE MINUTES OF THE MAY 18, 2001, TEXAS BOARD OF HEALTH MEETING, AS DISTRIBUTED.

A Resolution was presented to Sidney P. Shelton Jr., former TDH employee. (*Attachment I*)

A Resolution was presented to Kristine S. Lloyd, upon her retirement. (*Attachment II*)

Dr. Bell presented the Commissioner's Report, a copy of which is attached and made a part of these Minutes. (*Attachment III*)

Dr. Wilkerson presented the Strategic Management Committee Report, noting that the Committee approved the Minutes of their May 17, 2001 meeting, then recommended approval of an order adopting the Rule Concerning the Assignment and Use of Agency Vehicles in the State Vehicle Fleet Management Plan. The rule is a management plan to improve administration, operation, and consistency.

ON A MOTION MADE BY DR. WILKERSON, THE BOARD APPROVED AN ORDER ADOPTING THE RULE CONCERNING THE ASSIGNMENT AND USE OF AGENCY VEHICLES IN THE STATE VEHICLE FLEET MANAGEMENT PLAN, TO BE EFFECTIVE TWENTY DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE. (*Attachment IV*)

The Strategic Management Committee recommended approval to accept a gift of a one-time payment of \$100,000 from the Wyeth-Ayerst Laboratories.

Robert (Bob) Caldemeyer, Wyeth-Ayerst Laboratories, addressed the Board by saying Wyeth-Ayerst Laboratories is pleased to provide this gift to further improvements of diagnosis and standards of care for diabetes in Texas.

ON A MOTION MADE BY DR. WILKERSON, THE BOARD APPROVED THE ACCEPTANCE OF \$100,000 FROM THE WYETH-AYERST LABORATORIES AND COMMENDED THE COMPANY, THE COUNCIL AND ITS HEALTH CARE PROFESSIONALS COMMITTEE CHAIRMAN, CHARLES REASNER, M.D., FOR THEIR VISION AND COMMITMENT TO TEXANS WITH DIABETES AND THE PROFESSIONALS WHO SERVE THEM.

The Strategic Management Committee recommended approval to accept a gift of 17 pallets of calendars from the Calendar Club, L.L.C. These calendars will be distributed to various TDH volunteers, which include college and university interns and members of the community volunteer programs through the Volunteer Mailroom.

ON A MOTION MADE BY DR. WILKERSON, THE BOARD APPROVED THE ACCEPTANCE OF \$58,347.44 (17 PALLETS) OF CALENDARS TO BE DISTRIBUTED TO VARIOUS TDH VOLUNTEERS.

The Strategic Management Committee recommended approval of the General Revenue Public Health Transfers for FY 2001 and General Revenue Medicaid Transfers FY 2001 as shown on Attachment B.

ON A MOTION MADE BY DR. WILKERSON, THE BOARD APPROVED THE TRANSFERS REFLECTED ON ATTACHMENT B. (*Attachment V*)

In the absence of Ms. Mary E. Ceverha, Dr. Anzaldua reported that the Health Financing Committee approved the Minutes of their April 5, 2001 meeting. Informative presentations were given on the financial audits performed by Texas Medicaid Administrative Systems contractors; an update on the new Medicaid client processing system called Compass 21; an update on the Medicaid Managed Care activities across the state; and an update on the Children's Health Insurance Program (CHIP).

Dr. Anzaldua presented the Health and Clinical Services Committee report, noting that this Committee approved the Minutes from their May 18, 2001 meeting, then recommended approval of proposed rule changes concerning limitations to the Children with Special Health Care Needs Services Program for publication in the *Texas Register* for a 30-day comment period.

ON A MOTION MADE BY DR. ANZALDUA, THE BOARD APPROVED THE PROPOSED RULE CHANGES CONCERNING LIMITATIONS TO THE CHILDREN WITH SPECIAL HEALTH CARE NEEDS SERVICES PROGRAM FOR PUBLICATION IN THE ***TEXAS REGISTER*** FOR A 30-DAY COMMENT PERIOD.

The Health and Clinical Services Committee recommended final adoption of the repeal and new rules concerning the Register of Mother-Friendly Businesses, the Farmers' Market Nutrition Program, and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). The rules adopting the WIC and Farmers' Market Nutrition Programs' state plans by reference are repealed as unnecessary and inconsistent with other department programs, which prepare state plans. The rule adopting the federal regulations governing the WIC Program by reference is repealed as superfluous. The rule adopting the WIC Policy and Procedure Manual by reference is repealed, and 37 policies, which concern the public at large, are redesignated as §§31.21-31.37 without substantive change. The rule concerning the Register of Mother-Friendly Businesses is redesignated as §31.1 without substantive change.

ON A MOTION MADE BY DR. ANZALDUA, THE BOARD APPROVED AN ORDER ADOPTING THE REPEAL OF RULES AND NEW RULES CONCERNING THE REGISTER OF MOTHER-FRIENDLY BUSINESSES, THE FARMERS' MARKET NUTRITION PROGRAM, AND THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC) TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE. (*Attachment VI*)

The Health and Clinical Services Committee recommended final adoption of rules concerning sexually transmitted diseases including acquired immunodeficiency syndrome (AIDS) and human immunodeficiency virus (HIV). Amendments to the rules provide continuity in style and language and are consistent with the Texas Department of Health Operating Procedure, OP-0657, "Plain Language Resolution."

ON A MOTION MADE BY DR. ANZALDUA, THE BOARD APPROVED AN ORDER ADOPTING THE RULES CONCERNING SEXUALLY TRANSMITTED DISEASES INCLUDING ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS) AND HUMAN IMMUNODEFICIENCY VIRUS (HIV) TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE. (*Attachment VII*)

The Health and Clinical Services Committee recommended final adoption of the rules concerning the zoonotic diseases in animals that are notifiable by veterinarians. Increased reporting will lead to early detection and subsequent prevention of human disease.

ON A MOTION MADE BY DR. ANZALDUA, THE BOARD APPROVED AN ORDER ADOPTING THE AMENDMENTS CONCERNING THE ZOONOTIC DISEASES IN ANIMALS THERE ARE NOTIFIABLE BY VETERINARIANS, EFFECTIVE 20 DAYS AFTER THE RULES ARE FILED WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE. (*Attachment VIII*)

Dr. Beverly Robinson presented the Human Resources Committee Report, noting that this Committee approved the Minutes of their May 17, 2001 meeting, then recommended the appointment of five individuals to serve on the eleven-member Prostate Cancer Advisory Committee as follows: three non-consumer members—one with a term ending December 31, 2004 and two with terms ending December 31, 2006; two consumer members—one with a term ending December 31, 2004, and one with a term ending December 31, 2006.

Dr. Robinson commented that the pool of applicants provided a variety in geography and ethnic diversity, but there is a lack of African-Americans on this committee. She would like to look at this issue as positions expire in 2002, and noted that African-American men have the highest rate of prostate cancer both in the state and nationally.

ON A MOTION MADE BY DR. ROBINSON, THE BOARD APPROVED THE APPOINTMENT OF THE FOLLOWING INDIVIDUALS TO THE PROSTATE CANCER ADVISORY COMMITTEE WITH THE TERMS TO BEGIN JANUARY 1, 2001:

**Consumer**

Gregorio Baca Jimenez, term ending December 31, 2004  
James Robinson, III, term ending December 31, 2006

**Non-Consumer**

Umed Ali Ajani, term ending December 31, 2006  
Lauro Genaro Guerra, term ending December 31, 2004  
Meredith "Mickey" L. Jacobs, term ending December 31, 2006

The Human Resources Committee recommended approval of the proposed amendment to clarify procedures for the operation of the committee and bring the committee into compliance with HB 998, of the 77<sup>th</sup> Legislature, relating to the animal friendly account and advisory committee. This committee has been reviewed and evaluated, and it has been determined that the committee continue to advise the Board of Health on the dispensing of grant money in the animal friendly account until September 1, 2005.

ON A MOTION MADE BY DR. ROBINSON, THE BOARD APPROVED THE PROPOSED RULE CONCERNING THE ANIMAL FRIENDLY ADVISORY COMMITTEE FOR PUBLICATION IN THE ***TEXAS REGISTER*** FOR A 30-DAY COMMENT PERIOD.

Ms. Scholin presented the Regulatory Committee Report, noting that this Committee approved the Minutes of their May 17, 2001, meeting, then recommended repeal and proposed new rules regarding formal hearing procedures. The new rules will replace the repealed rules with updated statutory reference and references to the State Office of Administrative Hearings (SOAH), which is now responsible for conducting contested hearings under the Administrative Procedures Act (APA) and SOAH's Rules of Procedure.

ON A MOTION MADE BY MS. SCHOLIN, THE BOARD APPROVED THE PROPOSED RULES CONCERNING THE FORMAL HEARING PROCEDURES FOR PUBLICATION IN THE ***TEXAS REGISTER*** FOR A 30-DAY PUBLIC COMMENT PERIOD.

The Regulatory Committee recommended final adoption of the Rules §139.51(1), §139.51(2), and §139.41), concerning the regulation of abortion facilities based upon a decision of the U. S. Court of Appeals for the 5<sup>th</sup> Circuit. The benefit anticipated as a result of enforcing the sections will be the removal of unconstitutionally vague language.

Dr. Wilkerson reported that three issues will be considered when reviewing these rules early in fiscal year 2002: (1) a requirement that all fetal tissue be sent for pathologic examination and the patient alerted to any abnormalities, (2) a reporting requirement of complications and (3) a requirement that each patient have completed a blood type and screen prior to any procedures being performed.

DR. WILKERSON MOVED TO AMEND AGENDA ITEM 5.B. BY CHANGING THE LANGUAGE IN §139.8(f)(2) AND §139.49(d) FOR CLARITY. THE MOTION WAS SECONDED BY DR. ANZALDUA AND APPROVED BY THE BOARD. (*Attachment IX*)

ON A MOTION MADE BY MS. SCHOLIN, THE BOARD APPROVED THE PROPOSED RULES CONCERNING THE REGULATION OF ABORTION FACILITIES, AS AMENDED, FOR PUBLICATION IN THE ***TEXAS REGISTER*** FOR A 30-DAY PUBLIC COMMENT PERIOD.

The Regulatory Committee recommended final adoption of the Rules concerning approval of a repeal, amendments and new rules concerning minimum standards for narcotic treatment programs. Regulations will be expanded and clarified to aid in overall compliance, and to bring them in line with current standards of practice.

ON A MOTION MADE BY MS. SCHOLIN, THE BOARD APPROVED THE PROPOSED REPEAL, AMENDMENTS, AND NEW RULES CONCERNING THE MINIMUM STANDARDS FOR NARCOTIC TREATMENT PROGRAMS FOR PUBLICATION IN THE ***TEXAS REGISTER*** FOR A 30-DAY COMMENT PERIOD.

The Regulatory Committee recommended final adoption of amendments to rules concerning licensure of tanning facilities. The amendments clarify and update minimum standards for tanning devices in order to conform to current federal requirements promulgated by the U. S. Food and Drug Administration.

ON A MOTION MADE BY MS. SCHOLIN, THE BOARD APPROVED AN ORDER ADOPTING AMENDMENTS TO RULES CONCERNING LICENSURE OF TANNING FACILITIES TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE. (*Attachment X*)

The Regulatory Committee recommended approval of final adoption of amendments, a repeal and new sections concerning the licensure of medical physicists. Persons licensed under the Act will have access to administrative rules that are clear and more up-to-date.

ON A MOTION MADE BY MS. SCHOLIN, THE BOARD APPROVED AN ORDER ADOPTING THE RULES CONCERNING LICENSURE OF PROFESSIONAL MEDICAL PHYSICISTS TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE. (*Attachment XI*)

There were no public comments.

Ms. Lloyd announced that the next meeting would be held on August 17, 2001, in Austin, with committee meetings on August 16.

The meeting was adjourned at 10:25 a.m.

APPROVED August 17, 2001:

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J. C. Chambers  
Chairman  
Texas Board of Health

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Mario R. Anzaldúa, M.D.  
Vice-Chairman  
Texas Board of Health